

### REMARKS

Applicant has reviewed and considered the Office Action dated March 5, 2003, and the references cited therewith.

Claims 1-6, 11, and 16 are amended, no claims are canceled, and no claims are added; as a result, claims 1-20 are now pending in this application. The amendments to the claims are fully supported by the specification as originally filed. No new matter has been introduced. Applicant respectfully requests reconsideration of the above-identified application in view of the amendments above and the remarks that follow.

Claims 1, 6, 11, and 16, as amended, find support in the specification, for example, on page 3, line 23 – page 4, line 9.

Claims 2-5 are amended to correlate the language of these claims with the language of amended claim 1 from which these claims depend.

#### First §102 Rejection of the Claims

Claims 1, 6, and 16 were rejected under 35 USC § 102(b) as being anticipated by Ribic (U.S. 5,263,089). Applicant traverses these rejections of these claims.

Ribic does not anticipate claims 1, 6, and 16, since Ribic does not teach each and every claim element arranged as in claims 1, 6, and 16. “Anticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

Ribic appears to deal with a hearing aid having a filter arranged in a conventional manner between two amplification stages or in the feedback loop of an amplifier (*See, Abstract for Ribic*), where a change in the amplification shifts the resonant frequency of the Ribic filter. *See, Ribic column 3 line 66 - column 4 line 2.* Applicant can not find in Ribic a teaching or suggestion of an electronic device for use in assisting a hearing impaired patient, or an apparatus, with an active low pass filter having an adjustable overshoot adapted to tunably match a measured resonance curve to provide a substantially smooth insertion gain frequency response,

as recited in amended claims 1 and 6. Thus, Applicant submits that Ribic does not anticipate claims 1 and 6.

Further, Applicant can not find in Ribic a teaching or suggestion of an apparatus having a processing means having an adjustable overshoot adapted to tunably match a measured resonance curve to provide a substantially smooth insertion gain frequency response, as recited in amended claim 16. Thus, Applicant submits that Ribic does not anticipate claim 16.

Applicant respectfully requests withdrawal of these rejections to claims 1, 6, and 16, and reconsideration and allowance of these claims.

Second §102 Rejection of the Claims

Claim 11 was rejected under 35 USC § 102(b) as being anticipated by Miller et al. (U.S. 5,406,633). Applicant traverses these rejections of these claims.

Miller does not anticipate claim 11, since Miller does not teach each and every claim element arranged as in claim 11. "Anticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

Miller appears to deal with a hearing aid adjusted to match prescribed amplification characteristics at predetermined frequencies. (*See, Abstract for Miller*) Thus, the Miller hearing aid appears to be adjusted for predetermined frequencies and not to match a measured resonant curve. Applicant can not find in Miller a teaching or suggestion of a method for assisting a hearing impaired patient that tunes a frequency response curve of an electronic hearing aid to match a measured resonance curve such that the electronic hearing aid provides the patient with a smooth insertion frequency response, as recited in amended claim 11. Thus, Applicant submits that Miller does not anticipate claim 11.

Applicant respectfully requests withdrawal of these rejections to claim 11, and reconsideration and allowance of this claim.

*First §103 Rejection of the Claims*

Claims 2-5, 7, 8, 17, and 18 were rejected under 35 USC § 103(a) as being unpatentable over Ribic (U.S. 5,263,089) in view of Killion (U.S. 4,689,819). Applicant traverses these rejections of these claims.

As noted above with respect to claims 1, 6, and 16, Ribic does not teach or suggest all the elements as recited in claims 1, 6, and 16. Applicant can not find a teaching or suggestion in Killion that cures these abovementioned deficiencies of Ribic. Since claims 2-5, claims 7 and 8, and claims 17 and 18 depend on claims 1, 6, and 16, respectively, Applicant submits that claims 2-5, 7, 8, 17, and 18 are patentable over Ribic in view of Killion.

Applicant respectfully requests withdrawal of these rejections to claims 2-5, 7, 8, 17, and 18, and reconsideration and allowance of these claims.

*Second §103 Rejection of the Claims*

Claims 5, 8-10, 19, and 20 were rejected under 35 USC § 103(a) as being unpatentable over Ribic (U.S. 5,263,089). Applicant traverses these rejections of these claims.

As noted above with respect to claims 1, 6, and 16, Ribic does not teach or suggest all the elements as recited in claims 1, 6, and 16. Since claims 5, claims 8-10, and claims 19 and 20 depend on claims 1, 6, and 16, respectively, Applicant submits that claims 5, 8-10, 19, and 20 are patentable over Ribic.

Applicant respectfully requests withdrawal of these rejections to claims 5, 8-10, 19, and 20, and reconsideration and allowance of these claims.

*Third §103 Rejection of the Claims*

Claim 12 was rejected under 35 USC § 103(a) as being unpatentable over Miller et al. (U.S. 5,406,633) in view of Killion (U.S. 4,689,819). Applicant traverses these rejections of these claims.

As noted above with respect to claim 11, Miller does not teach or suggest all the elements as recited in claim 11. Applicant can not find a teaching or suggestion in Killion that cures these abovementioned deficiencies of Miller. Since claim 12 depends on claim 11, Applicant submits that claim 12 patentable over Miller in view of Killion.

Applicant respectfully requests withdrawal of these rejections to claim 12, and reconsideration and allowance of this claim.

*Fourth §103 Rejection of the Claims*

Claims 13-15 were rejected under 35 USC § 103(a) as being unpatentable over Miller et al. (U.S. 5,406,633) in view of Killion (U.S. 4,689,819) and further in view of Ribic (U.S. 5,263,089). Applicant traverses these rejections of these claims.

As noted above with respect to claim 11, Miller does not teach or suggest all the elements as recited in claim 11. Applicant can not find a teaching or suggestion in Ribic or in Killion that cures these abovementioned deficiencies of Miller. Since claim 13-15 depend on claim 11, Applicant submits that claims 13-15 are patentable over Miller in view of Killion and further in view of Ribic.

Applicant respectfully requests withdrawal of these rejections to claims 13-15, and reconsideration and allowance of these claims.

*Assertion of Pertinence*

Applicant has not responded to the assertion of pertinence stated for the patents cited but not relied upon by the Office Action since these patents are not relied upon as part of the rejections in this Office Action. Applicant is expressly not admitting to any assertion of their pertinence and reserves the right to address the assertion should it form a part of some future rejection.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612-371-2157) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743

Respectfully submitted,

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By their Representatives,

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Date 7 July 2003

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 7 day of July, 2003.

GREG HANSON  
Name

[Signature]  
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